A.F.R.

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, C.J.
HON'BLE SHRI D.R. DESHMUKH, J.

W.P. No.5916 OF 1998

W.P. No.5917 OF 1998

W.P. No.5918 OF 1998

W.P. No.5919 OF 1998

W.P. No.5920 OF 1998

W.P. No.5921 OF 1998

W.P. No.5926 OF 1998

W.P. No.5927 OF 1998

W.P. No.5928 OF 1998

ORDER FOR CONSIDERATION

Sd/-
CHIEF JUSTICE
27/02/2006

HON'BLE SHRI D.R. DESHMUKH, J

I agree,

Sd/-
Dilip Raosaheb Deshmukh
Judge

Post for pronouncement of the order on 01/03/2006

Sd/-
Chief Justice

28/02/2006.

A.F.R. 91

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, C.J.
HON'BLE SHRI D.R. DESHMUKH, J.

W.P. No.5916 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. R.P. Katiyar, aged about 46 years, S/o Shri S.C. Katiyar, Ex-Sub-Inspector, Police Station Manper R/o C-71, New Saket Nagar, Gwalior (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5917 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Puranlal son of Tiharu Ram, aged 27 years, r/o Dharmpur, P.O. Dilpahri, Police Station Lalbag Distt. Rajnandgaon (MP)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5918 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Siya Ram S/o Hriday Ram Aged about 29 years R/o Khobhe, Police Station Khobhe, Distt. Rajnandgaon (MP)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5919 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Krishan Kumar s/o Shri Kejuram Verma, aged about 28 years, r/o Village Slipatti, P.O. Baikunth, Police Station Neora, District Raipur (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5920 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Janaklal s/o Goharam aged about 29 years, R/o Ramnagar Ward No. 2 Behind B.N.C. Mill, Rajnandgaon (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5921 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Chandrakant Verma S/o Shri Koduram Verma, Aged about 25 years, R/o Village Kharra, Post Office Teligundra, Police-Station Patan, District: Durg (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5926 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Suresh Kumar Verma S/o Shri Ramswaroop aged about 26 years, R/o Village Suma Post Office Taringa Police Station Bhatapara, District : Raipur (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5927 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)
2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Israr Ahmad S/o Shri Nisar Ahmad, Aged about 35 years, Village Amliolhi Khurd Police Station Khairagarh, Distt: Rajnandgaon, (M.P.)
2. State Administrative Tribunal M.P. at Jabalpur through Registrar.

W.P. No.5928 OF 1998

PETITIONERS

1. State of M.P. through Secretary, Government of M.P., Home Department Vallabh Bhawan, Bhopal (M.P.)

2. Dy. Inspector General of Police, Raipur Zone, Raipur (M.P.)

VERSUS

RESPONDENTS

1. Chhanulal S/o Shri P.R. Bharadwaj, Aged about 38 years, R/o Village Lemmeta, Post Office Chhuria, Distt. Rajnandgaon.
2 State Administrative Tribunal M.P. at Jabalpur through Registrar.

Present: Shri Pramod Kumar Verma, learned Additional Advocate General with Shri Utkarsh Verma, learned Dy. Govt. Advocate for the State/ petitioners.

Mr. V.R. Tiwari, learned counsel for the respondents.

ORDER

(Passed on 01 March, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ :

All these writ petitions are directed against the common order of Madhya Pradesh State Administrative Tribunal at Jabalpur (for short 'the Tribunal') dated 07-03-1998. Since the facts of the cases and the legal question that arises for decision-making are similar in all these writ petitions, they are clubbed, heard together and being disposed of by this common order.

(2) The facts of the case, in brief, are as follows :

On 18-09-1996 at about 12.30 a.m. Shri R.P. Katiyar, Sub- Inspector and Officer-in-charge, Manpur Police Station was investigating Crime No.16/96, registered under Sections 459/380 of I.P.C. in the presence of the witnesses, namely, Ghurauram, Shyam Singh, Deonath and Dashrath, who were summoned by the Investigating Officer for recording statements. At that time, about 35-40 Naxalites ambushed the Police Station and

opened indiscriminate fire. The Sub- Inspector ordered all the police personnel in the Police Station to take arms and accordingly the police personnel, the respondents herein exchanged fire. The Naxalites threw a grenade at the Police Station and started firing through the windows of the Police Station. At that stage, according to the respondents herein, a constable Ramlal Deshmukh, by name, who was staying in the residential quarter with his family announced on a loud-speaker that he had been detained as hostage by the Naxalites and that they were threatening to kill him as well as the members of the police families residing in the police quarters in the vicinity unless the police personnel surrender and handover the arms to them. According to the respondents, Ramlal also announced that dynamite has been spread over around the Police Station. According to Shri R.P.Katiyar, when the above announcement was made by Ramlal Deshmukh, he identified the voice of Ramlal Deshmukh and he had no reason to suspect the genuineness of the announcement. In such alarming and dangerous situation, Shri R.P. Katiyar decided to avoid the encounter with the Naxalites, because, the Naxalites were large in strength and they were also armed with sophisticated weapons like A.K.-47 and S.L.Rs. Such a decision was taken to save the lives of the police-men and their families. Accordingly, the respondents herein surrendered before the Naxalites. The Naxalites looted the arsenal kept at the Police Station and fled away. Shri R.P. Katiyar then recorded the FIR, marked as Annexure No. 1. The incident was also flashed in newspapers.

(3) The Deputy Inspector General of Police, Raipur Range, conducted a preliminary inquiry and found that the respondents-police personnel exhibited cowardice when the Naxalites ambushed the Police Station and were guilty of misconduct. It was also found that no impartial

witness was coming forward to make any statement in regard to the incident. In the circumstance, the Deputy Inspector General of Police, Raipur Range, dispensed with the inquiry, invoking the provisions of Article 311 (2), second proviso, clause (b) of the Constitution of India and terminated the services of the respondents herein.

(4) The respondents herein being aggrieved by the above order of the Dy. Inspector General of Police filed Original Applications No. 1790 of 1997 and the batch before the Tribunal for quashing the order of the Deputy Inspector General of Police, Raipur Range removing the respondents from service by dispensing with the departmental enquiry.

(5) The Tribunal having opined that the Deputy Inspector General of Police, Raipur Range, ought not to have invoked the provisions of Article 311(2), second proviso, clause (b) of the Constitution and dispensed with the inquiry, because, the situation of the case was not that one could reasonably think that it was not practicable to hold inquiry against the respondents herein, by its order dated 07-03-1998, allowed the Original Applications filed by the respondents herein and quashed the order passed by the Deputy Inspector General of Police, Raipur Range. The Tribunal directed the petitioners herein to reinstate all the respondents herein into service and pay salaries and allowances to them for the period, from the date they were removed till reinstatement. Being aggrieved by the above order of the Tribunal, the State Government and the Deputy Inspector General of Police, Raipur Zone, have preferred these writ petitions under Articles 226/227 of the Constitution of India.

(6) We have heard Shri Pramod Kumar Verma, learned Additional Advocate General appearing for the petitioners and Shri V.R. Tiwari, learned counsel appearing for the respondents.

(7) Mr. Pramod Kumar Verma, learned Addl. Advocate General, while impugning the order of the Tribunal would contend that the reason given by the Tribunal to hold that the witnesses though interested were available to prove the charge made against the respondents, is not well- founded. He submitted that the above reasoning may have some relevance in criminal prosecution, but, not in the departmental enquiry. It was next contended that the Tribunal has taken into account what is stated by Mr. R.P. Katiyar, Sub Inspector in the FIR filed after the incident as gospel truth to conclude that there was justification for the respondents – police to surrender and not to encounter with the Naxalites, because, the lives of the police and their family members were in imminent danger. The Tribunal has thus failed to appreciate the fact that Mr. R.P. Katiyar, Sub Inspector filed FIR to cover-up the cowardice and irresponsibility on the part of the respondents – police in resisting the illegal acts of the Naxalites. According to Mr. Pramod Kumar Verma, the preliminary inquiry conducted by the Deputy Inspector General of Police, Raipur Range disclosed that the respondents – police without any resistance, simply surrendered to the Naxalites and permitted the Naxalites to flee away with the arms. Lastly, Mr. Pramod Kumar Verma would contend that the satisfaction of the Deputy Inspector General of Police, Raipur Range that it was not reasonably practicable to hold departmental enquiry, was based on relevant materials, and inasmuch as the Tribunal could not go into the question of sufficiency of evidence/materials on the basis of which the disciplinary authority had

recorded such satisfaction, the Tribunal ought not to have interfered with the order of the Deputy Inspector General of Police, Raipur Range.

(8) Mr. V.R. Tiwari, learned counsel for the respondents, on the other hand, would support the order of the Tribunal and would press into service the very same reasons stated by the Tribunal in its order for its conclusion. Mr. V.R. Tiwari would contend that admittedly when the incident took place, four persons, namely, Ghurauram, Shyam Singh, Deonath and Dashrath were summoned for the purpose of interrogation in connection with Crime No.16/96 and they were witnesses to the incident. Mr. V.R. Tiwari would also contend that the same disciplinary authority conducted regular inquiry with regard to certain other police officials who were in their residences at the time of the same incident on the ground that they did not resist the attack of the Naxalites and taking away the arms and, therefore, there was no difficulty for the disciplinary authority to examine the witnesses to prove the charge against the respondents police officials if the charge is true. Mr. V.R. Tiwari would submit that there was absolutely no relevant circumstance or ground to dispense with the inquiry and pass the impugned order removing the respondents – police from service as a disciplinary measure.

(9) In reply, Mr. Pramod Kumar Verma, learned Addl. Advocate General, urged that if for any reason the Court is not inclined to interfere with the order made by the learned Tribunal, the Court may atleast permit the department to conduct regular departmental inquiry against the respondents police officials.

(10) Having heard the learned counsel for the parties, the only question that arises for decision-making in these writ petitions is whether

the Deputy Inspector General of Police, Raipur Range, was justified in dispensing with the inquiry by invoking Article 311(2), second proviso, clause (b) of the Constitution.

(11) Clause (1) of Article 311 of the Constitution provides that no person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed. Clause (2) of Article 311 mandates that no such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(12) There are two provisos to Clause (2) of Article 311and they read as follows:

> "Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:
>
> Provided further that this clause shall not apply –
>
> (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
>
> (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

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(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(13) Clause (3) of Article 311 of the Constitution provides that if, in respect any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

(14) For our purpose, proviso 2 (b) is relevant. Under this proviso no inquiry need be held if the appointing authority records it in writing that it is not reasonably practicable to hold such inquiry. In order to apply this protection to the order of dismissal or removal or reduction in rank, certain conditions must be satisfied. Firstly, the proviso 2(b) is attracted when the authority is satisfied from the material placed before him that it is not reasonably practicable to hold a departmental inquiry. The decision to do so cannot rest solely on the *ipse dixit* of the concerned authority. It is incumbent on those who support the order to show that the satisfaction is based on certain objective facts and is not the outcome of whim or caprice. There must be independent material to justify the dispensing with the inquiry envisaged by Article 311 (2) of the Constitution. In the case of **Chandigarh Administration, Union Territory, Chandigarh Vs. Ajay Manchanda**[1], it was held that the situation obtaining at the relevant place and at the relevant time must be kept in mind to adjudge the existence of material to be satisfied that holding of departmental inquiry was not reasonably practicable. Secondly, satisfaction must be that of the authority who is

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1. (1996) 3 SCC -753 = AIR 1996 SC - 3152

empowered to dismiss, remove or reduce the officer in rank and he must apply his mind to it. Thirdly, the authority empowered to dismiss, remove or reduce the officer in rank must record his reasons in writing for denying the opportunity under clause (2) before making the order of dismissal, removal or reduction in rank, as the case may be. Fourthly, the reasons recorded must *ex facie* show that It was not reasonably practicable to hold a disciplinary inquiry and must not be vague or irrelevant. Lastly, the power must be exercised *bona fide*, having regard to relevant considerations.

(15) The Supreme Court in the case of **Workmen of Hindustan Steel Ltd. and another Vs. Hindustan Steel Ltd. and others**[2], dealing with the grounds for dispensation of inquiry under Article 311 (2), Second Proviso, Clause (b) of the Constitution held thus :

> "A bare perusal of the situations and contingencies in which a disciplinary enquiry affording a reasonable opportunity of being heard before imposing the enumerated penalty can be dispensed with will clearly show that the power is not given to dismiss, remove or reduce in rank the delinquent worker but the power conferred by the afore-mentioned provision is to dispense with an enquiry before imposing major penalty. Sub-art. (3) of Art.311 provides that 'if, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.' Now the three situations contemplated by the provision are such that holding of an enquiry would be counter-productive. Where the penalty of dismissal, removal or reduction in rank is to be imposed on the ground of a conduct which has led to his conviction on a

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2. AIR 1985 SC 251

criminal charge, obviously, the enquiry will be superfluous or a repeat performance because a judicial tribunal has held the charges proved. But where the authority empowered to impose the penalty is satisfied for reasons to be recorded by it in writing to dispense with an enquiry the reasons so recorded must ex facie show that it was not reasonably practicable to hold a disciplinary enquiry. Similarly, where the interest of the security of the State, the President or the Governor, as the case may be, is satisfied that it is not expedient to hold such enquiry, the same can be dispensed with. In the last mentioned situation, the highest executive of the country, the President and the highest executive of the State, the Governor alone is satisfied that in the interest of the security of the State, it is not expedient to hold such enquiry. Dispensing with the enquiry in the first and third situation does not present a difficulty because in the first situation there is a conviction by a criminal court and in the third situation, the highest executive in the Centre and the State is empowered to dispense with the enquiry. It is in the second fact situation that one must evaluate the width of discretionary power to dispense with enquiry. The appointing authority is invested with power to dispense with enquiry. And in case of persons belonging to Class IV services, the appointing authority may be some-one in the lower administrative hierarchy and such an officer is invested with such draconian powers. Where such a power is conferred, on an authority entitled to impose penalty of dismissal or removal or reduction in rank, before it can dispense with the inquiry, it must be satisfied for reasons to be recorded in writing that it is not reasonable practicable to hold such an enquiry. Power to dispense with the enquiry is conferred for a purpose and to effectuate the purpose power can be exercised. But power is hedged in with a condition of setting down reasons in writing why power is exercised. Obviously therefore the reasons which would permit exercise of power must be such as would clearly spell out that the inquiry if held would be counter-productive. The duty to specify by reasons for the satisfaction for holding that the

inquiry was not reasonably practicable cannot be dispensed with. The reasons must be germane to the issue and would be subject to a limited judicial review. Undoubtedly sub-art. (3) of Art. 311 provides that the decision of the authority in this behalf is final. This only means that the Court cannot inquire into adequacy or sufficiency of reasons. But if the reasons ex facie are not germane to the issue namely of dispensing with enquiry the Court in a petition for a writ or certiorari can always examine reasons ex facie and if they are not germane to the issue record a finding that the pre-requisite for exercise of power having not been satisfied, the exercise of power was bad or without jurisdiction. If the Court is satisfied that the reasons which promoted the concerned authority to record a finding that it was not reasonably practicable to hold the enquiry, obviously the satisfaction would be a veneer to dispense with the inquiry and the court may reject the same. What is obligatory is to specify the reasons for the satisfaction of the authority that it was not reasonably practicable to hold such an inquiry. Once the reasons are specified which are certainly subject to limited judicial review as in a writ for certiorari, the court would examine whether the reasons were germane to the issue or were merely a cloak, device or a pretence to dispense with the inquiry and to impose the penalty. Let it not be forgotten what is laid down by a catena or decisions that where an order casts a stigma or affects livelihood, before making the order, principles of natural justice namely a reasonable opportunity to present one's case and controvert the adverse evidence must have full play. Thus even where the Constitution permits dispensing with the inquiry, a safeguard is introduced that the concerned authority must specify reasons for its decision why it was not reasonably practicable to hold the inquiry."

(16) In the premise of the well settled principles governing satisfaction to be recorded under Article 311(2), second proviso, clause (b) of the Constitution, we shall now proceed to examine the question whether

satisfaction recorded by the Dy. Inspector General of Police, Raipur Range to dispense with the inquiry on the ground that it was not reasonably practicable to hold inquiry was based on grounds and circumstances which were relevant and germane to the decision-making or not.

(17) The only reason assigned by the Dy. Inspector General of Police, Raipur Range to dispense with the inquiry is that it was revealed in the preliminary inquiry that no impartial witness was coming forward to make any statement in regard to the incident. The Dy. Inspector General of Police, Raipur Range, thus, opined that looking to the nature of the incident, holding of regular departmental inquiry against the policemen concerned was not possible. The question is whether the above reason recorded by the Dy. Inspector General of Police, Raipur Range could be considered as a valid and relevant reason to dispense with the inquiry by invoking Article 311 (2), second proviso, clause (b) of the Constitution. The above reason assigned by the Dy. Inspector General of Police, Raipur Range should be appreciated in the established facts and circumstances of this case. Apart from the policemen concerned, admittedly, there were four other person, namely, Ghurauram, Shyam Singh, Deonath and Dashrath, who were summoned by R.P. Katiyar, Sub Inspector for investigation of the crime No.16/96, and they were witnesses to the incident. Obviously, those four persons could have told as to what happened and transpired when the Naxalites ambushed the Police Station. The veracity or falsehood of the case of the policemen, as stated in the FIR, would have been proved by examining those four persons. Secondly, with regard to the same incident, the department had conducted regular departmental inquiry against certain other policemen who were in the official quarters with their families for having failed in their duty to resist the Naxalites. Perhaps, those very

witnesses who were examined on behalf of the disciplinary authority to prove the charges against those policemen could have been witnesses to prove the allegations now levelled by the department against the respondents police personnel. Normal rule is that before imposing any punishment by way of removal, dismissal, reduction in rank, the concerned employee should be appraised of the charge against him and he should be given a fair and reasonable opportunity to defend himself. Holding of an inquiry has been held to be a rule and dispensation of inquiry is an exception. The Supreme Court in the case of **Sudesh Kumar Vs. State of Haryana and Others.**[3] has held that holding of inquiry by informing of the charges and giving reasonable opportunity of being heard is the rule and dispensing therewith is an exception. In that case, the appellant was recruited as Constable to Haryana Police Service on 31.07.1985. He was promoted as Head Constable on 11.07.1992. At the relevant time, he was posted in the Executive Clerical Branch at Gurgaon. On the basis of a complaint said to have been lodged by one Japanese national, Mr. Kenichi Tanaka, an investigation was carried out by Deputy Superintendent of Police and on that basis, the services of the appellant were terminated by resorting to the provisions of Article 311(2), second proviso, clause (b) of the Constitution, dispensing with the inquiry. The appellant challenged the order of dismissal before the disciplinary authority, which was dismissed. Aggrieved thereby, he filed an appeal before the disciplinary appellate authority which was also dismissed. The High Court also dismissed the writ petition preferred by him. When the above order of the High Court was challenged before the Apex Court, the Apex Court held that the reasons

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3. (2005) 11 SCC 525

stated by the disciplinary authority were not sufficient for dispensing with regular departmental inquiry.

(18) It also needs to be noticed that according to the department, what is stated by R.P. Katiyar, Sub Inspector, in the FIR is false and, on the other hand, the police without any resistance simply surrendered to the Naxalites and the Naxalites fled away with the arms. Whether the statements contained in the FIR are true or not and such FIR was filed by R.P. Katiyar, Sub Inspector only with an intention to absolve themselves from their responsibilities, is a matter to be established after holding a regular departmental inquiry. The department cannot assume a fact in their favour and sack the police personnel on that basis. As rightly pointed out by the Tribunal, if what is stated in the FIR is found to be false after the inquiry, then, R.P. Katiyar will be liable to be punished for drawing false FIR also. There is no need for the Court to appreciate the version of the police as contained in the FIR. It may be true or it may be false. Suffice it to state that to establish the truthfulness or falsity of the version of the police as contained in the FIR, regular departmental inquiry is a must and there was no impediment for the department to hold regular departmental inquiry against the police concerned.

(19) In that view of the matter, we are of the considered opinion that the Tribunal has rightly held that Article 311 (2), second proviso, clause (b) of the Constitution is not attracted to the facts of this case. But, we do not find any justification to foreclose the accusation made against the respondents-police by the department. If the allegation is true, it is very serious in nature and it would badly reflect on the policemen concerned. Therefore, the Tribunal ought to have allowed the department to conduct a regular departmental inquiry and such a course was also open to the

Tribunal. In the case of **Ex. Constable Chhotelal Vs. Union of India and others**[4] the Supreme Court having opined that the order dispensing with the departmental inquiry was not in accordance with law and there existed no ground or circumstance to invoke Article 311 (2), second proviso, clause (b) of the Constitution, set aside the order of dismissal passed against the appellant therein and permitted the departmental authority to hold an inquiry, if so desired, in accordance with law. We think that such a procedure would meet the ends of justice and serve the public interest. In that view of the matter, while upholding the impugned order of the Tribunal, we, however, permit the departmental authority to hold a regular inquiry against the respondents-policemen, if so desired, in accordance with law. The writ petitions are disposed of in the above terms. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

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4. (2000)10 SCC 196